IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 99 of 2004

Shetkari Sahakari Tambaku Kharedi
Vikri Sangh ltd. .. Petitioner

versus

Special Land Acquisition Officer
No.6, Kolhapur & ors. .. Respondents

...

Mr.P.D. Dalvi for the applicant.
Mrs.Geeta Mulekar, G.P. for the respondent.

CORAM : B.H. MARLAPALLE,J
DATED : 16th September 2005.

P.C.:

1. Heard Shri Dalvi, the learned counsel for

the applicant Sangh which is aggrieved by an order dated 11th February 2004 passed by Land Acquisition Officer No.6, Kolhapur.

2. The Sangh is a Society registered under the Maharashtra Co-operative Societies Act 1960 and it owned agricultural land located in Gat No.208(B) admeasuring 25 ares, situated at Gokul, Shirgaon, District.Kolhapur. The said land came to be acquired under the Land Acquisition Act 1894 at the instance of the Central Government for widening of National Highway No.4. An award u/s.11 of the said Act came to be passed on 22nd December 2002.

3. The applicant approached the Land Acquisition Officer/Collector and submitted an application for reference u/s.18 of the Act on or about 15th November 2003 and by the impugned order dated 11th February 2004, the said application has been rejected on the ground that it was filed beyond limitations as set out u/s.18 of the Act. It was contended by Mr.Dalvi that the Land Acquisition Officer did not issue and serve the notice u/s.12(2) of the Act to the applicant Sangh at any time and therefore, the limitation of six weeks as set out in

the impugned order was not applicable.

4. The Special Land Acquisition Officer has filed affidavit in reply and has stated that the notice u/s.12(2) was sought to be served by the Shirgaon Talathi on 21st November 2002 informing all the claimants of Village Shirgaon, Taluka. Karvir that the compensation amount would be granted on 29th November 2002. On 6th December 2002, the Talathi sent a report to the Special Land Acquisition Officer that the notice was served on all the claimants whose names were set out below the notice. A xerox copy of the notice of the said names is marked as Exhibit-X annexed to the affidavit in reply and the name of the applicant Sangh appears at Sr. No.33. Against each name, there appears signatures of the persons who were served with these notices and it was rather difficult to identify the name of the person who presumably signed for the applicant Sangh at Sr.No.43 (Exhibit-X). Mrs.Mulekar, the learned Government Pleader has received written instructions from the Land Acquisition Officer stating that the said signature was of Mr.Uday Jaywantrao Patil who was the Manager of Mayur Petrol Pump run by the applicant

Sangh in its premises and there is no dispute that the said Mr.Uday Patil was an employee of Sangh at the relevant time. It was contended by Mr.Dalvi that unless the notice was served on the Managing Director or any other office bearer of the applicant Sangh, it could not be a valid service and therefore, it must be presumed that the notice u/s.12(2) of the Act was not served on the applicant Sangh as claimed.

5. These contentions are required to be discarded. Mr.Uday Patil was not a peon or an attendant but he was holding the post of a Manager. In its application submitted to the Collector u/s.18 of the Act, the applicant Sangh did not take a plea bill that the notice served on its employee was not a valid notice. The report submitted by the Talathi and as annexed to the affidavit in reply shows that the notices to all the claimants including the applicant Sangh were served on 21st November 2002 (Exh-Y) Thus, the limitation u/s.18 for a period of six weeks would commence from 21.11.2002 so as to submit an application for reference to the Court claiming enhancement in the compensation amount. Under such circumstances, the impugned order does not call for any interference and more so, when a Full

Bench of this Court in the case of Suresh Marutrao Jadhav Vs. State of Maharashtra & Anr. reported in 2002(5) BCR 347. has already held that the Collector/Land Acquisition Officer does not act as the Court while entertaining the application u/s.18 of the Act and therefore, the provisions of section 5 of The Limitations Act are not applicable.

6. Revision thus fails and the same is hereby rejected.

B.H. MARLAPALLE, J